

Office Action Summary	Application No.	Applicant(s)	
	09/820,505	HIMMEL ET AL.	
	Examiner	Art Unit	
	Daniel Matz	3641	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-24 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>2</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

2. Claims 1-2, 4, 6-10, 13-18, and 21-24 are rejected under 35 U.S.C. 102(a) as being anticipated by Published International Patent Application WO 00/31657 by Van Den Berghe et al.

Regarding claim 1, Van Den Berghe et al. disclose a method of online shopping, comprising: providing a client shopping cart application for generating an online shopping cart usable at a plurality of merchant sites (see abstract, a multi-site shopping cart); connecting to a merchant site (merchant sites are browsed; page 3, lines 9-13); exchanging information between the merchant site and the client shopping cart regarding one or more items in the shopping cart (page 3, lines 24-28); and transferring check-out information for at least one of the items in the shopping cart from the client shopping cart to at least one of the merchant sites (page 3, lines 30-39).

Regarding claim 2, Van Den Berghe et al. disclose a method further comprising: determining whether the merchant site supports the client shopping cart application. Specifically, the method of Van Den Berghe et al. includes a shopping cart designed to be used with Web sites that have entered into a Cooperative Sales relationship (see abstract), and would therefore be supported by the shopping cart application. Thus,

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determining whether the site supports the shopping cart (whether the site is part of the Cooperative Sales relationship) is an inherent part of the method disclosed by Van Den Berghe et al., since only those merchant sites that are part of the relationship would support the particular shopping cart application. As to limitations that are considered to be inherent in a reference, note the case law of In re Ludtke, 169 USPQ 563, In re Swinehart, 169 USPQ 226, In re Fitzgerald, 205 USPQ 594, In re Best et al., 195 USPQ 430, and In re Brown, 173 USPQ 685, 688.

Regarding claim 4, Van Den Berghe et al. disclose a method further comprising: selectively hiding information regarding at least one of the items. In particular, Van Den Berghe et al. disclose (page 3, lines 30-31) selecting a sub-set of the items in the shopping cart before executing the purchase, thus effectively “hiding” some of the items in the cart.

Regarding claim 6, Van Den Berghe et al. disclose a method further comprising: obtaining purchase approval prior to transferring checkout information. As discussed on page 14, step 4.3 (lines 21-25) the method of Van Den Berghe et al. includes obtaining purchase approval (customer clicking on checkout) prior to transferring checkout information to checkout the shopping carts.

Regarding claim 7, Van Den Berghe et al. disclose a method further comprising: configuring the shopping cart according to configuration information received from a user. Specifically, Van Den Berghe et al. disclose configuring the shopping cart with a “Wish List” (page 15, line 36 – page 16, line 19) or configuration information received from the user.

Regarding claim 8, Van Den Berghe et al. disclose a method wherein the exchanged information includes one or more URLs (see page 19, claim 1).

Regarding claim 9, Van Den Berghe et al. disclose a method wherein the exchanged information includes an indication of whether the items are to be included during checkout. In particular, Van Den Berghe et al. disclose (page 3, lines 30-31) selecting a sub-set of the items in the shopping cart before executing the purchase, thus indicating whether the items are to be included during checkout.

Regarding claim 10, Van Den Berghe et al. disclose a method further comprising: retrieving locally stored shopper information for checkout; and transferring the locally stored information to the at least one merchant site. Specifically, the method of Van Den Berghe et al. includes a Parsing Proxy Server (PPS) that places an order by retrieving the shopper information and using it to perform a checkout at a merchant site (see page 3, lines 30-36).

Regarding claims 13-18, Van Den Berghe et al. disclose a computer program product stored in a computer-useable medium (and loaded onto and executed on computer servers – see abstract) having the claimed features as discussed above regarding claims 1-2, 4, and 8-10.

Regarding claims 21-24, Van Den Berghe et al. disclose a system for online shopping (see claims 1-25, and figures 4-8) having the claimed features as discussed above regarding claims 1-2, 4, and 10.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Van Den Berghe et al. as applied to claim 1 above, in view of USPN 6,141,653 granted to Conklin et al.

Regarding claim 3, Van Den Berghe et al. do not disclose an online shopping method further comprising: exposing the items in the shopping cart for bids from the merchant sites. Conklin et al. teach (see abstract) a system for a buyer to expose items for bids from various merchants in order to negotiate price reductions or other terms. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to incorporate exposing the items in the shopping cart for bids from the merchant sites into the method of Van Den Berghe et al. in order to negotiate price reductions or other terms.

5. Claims 5, 12, and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Van Den Berghe et al. as applied to claims 1 and 13 above, in view of USPN 6,125,352 granted to Franklin et al.

Regarding claim 5, Van Den Berghe et al. do not disclose password protecting the online shopping cart. Franklin et al. teach (col. 9, lines 43-46) an online shopping method with password protection for consumer payment source and address

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information in order to prevent unauthorized purchases. Given the disclosure of Van Den Berghe et al. of a shopping cart that includes such information, it would have been obvious to one of ordinary skill in the art at the time the invention was made to include password protection of the online shopping cart in the method of Van Den Berghe et al., in order to prevent unauthorized purchases.

Regarding claims 12 and 20, Van Den Berghe et al. do not disclose a method (or computer program product) further comprising: transferring a confirmation object (i.e., a confirmation code or check) from the at least one of the merchant sites to the client shopping cart application. Franklin et al. teach (col. 25, lines 57-64) the use of a confirmation check as part of an online transaction system to avoid unintended replacement of information. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to incorporate a confirmation check into the method of Van Den Berghe et al. in order to avoid unintended replacement of information.

6. Claims 11 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Van Den Berghe et al. as applied to claims 1, 10, 13, and 18 above, in view of USPN 5,182,705 granted to Barr et al.

Regarding claims 11 and 19, Barr et al. teach a method for making payments online, including prompting the operator to input any missing information needed to complete the transaction (col. 5, lines 55-58). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to incorporate determining whether any of the stored shopper information is missing; and prompting

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the shopper to manually enter missing information into the method of Van Den Berghe et al. in order to ensure that all information needed to complete the transaction is provided.

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

a. USPN 6,029,141 to Bezos et al. discloses an internet based marketing system including the use of a shopping cart.

b. USPN 5,918,213 to Bernard et al. discloses an automated purchasing system.

c. USPN 6,101,482 to DiAngelo et al. discloses a universal web shopping cart.

d. USPN 6,073,124 to Krishan et al. discloses a secure method for online purchases.

e. USPN 6,266,649 to Linden et al. discloses an online comparison shopping method.

f. USPN 6,317,722 to Jacobi et al. discloses an online comparison shopping method using a shopping cart.

g. USPN 5,826,242 to Montulli discloses an online shopping method.

h. USPN 6,012,045 to Barzilai et al. discloses an online auction system.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Daniel Matz whose telephone number is (703) 306-4164. The examiner can normally be reached on Mon-Thurs, alt Fri 7:30am to 4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Carone can be reached on (703) 306-4198. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 306-4180.

DM

September 3, 2003